

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

IN RE:

CHAPTER 13

TONIELLE ADAMS HENDRICKS
FREEMAN HENDRICKS

CASE NUMBER 8:15-bk-05403-KRM

Debtor(s)¹

**TRUSTEE'S UNFAVORABLE RECOMMENDATION AND
OBJECTION CONCERNING CONFIRMATION OF THE PLAN**

TO: Clerk, United States Bankruptcy Court

Trustee's Recommendation to the Court. The Trustee cannot recommend confirmation of the Chapter 13 Plan at this time and objects to confirmation based on the following:

1. The Trustee requests the following additional documents to determine if the Debtor has dedicated all disposable income to the Plan and/or met the best interest of creditors test:

- a. Personal income tax returns for 2013;
- b. Copy of pre-filing credit counseling certificate.

2. It does not appear that the Debtor has dedicated all disposable income to the proposed Plan as required by 11 U.S.C. §1325(b)(1)(B).

- a. Based on line 45 of the Debtor's Form 22C-2, the unsecured creditors are not receiving sufficient funds;
- b. The Debtor's Form 22C-2 shows sufficient monthly disposable income to pay a 100% dividend to the anticipated allowed general unsecured claims in less time than proposed in the Debtor's Plan.

3. An Amended Plan must be filed because the Plan fails to provide for the proper treatment of the secured creditors pursuant to 11 U.S.C. §1325(a)(5) and/or 11 U.S.C. §1322. The use of section "H" is only warranted when there are legitimate disputes as to mortgages being litigated in State Court. Also, the Preserve at Sundance is not provided for, according to the Statement of Financial Affairs, Section 4 there is a foreclosure action related to this creditor.

¹ All reference to "Debtor" shall include and refer to both of the Debtors in a case filed jointly by two individuals.

4. The Debtor's Statement of Financial Affairs, question 9, must be amended to list all payments and all required information related to debt counseling or bankruptcy.

5. The Debtor's Schedule B must be amended to clearly identify all vehicle information.

6. The Debtor's Schedule D must be amended to add the Preserve at Sundance.

7. An Amended 2016(b), and/or Plan, needs to be filed to show the correct amount paid or to be paid to counsel for attorney fees. The 2016(b) is devoid of information.

8. The Debtors have not claimed their homestead exempt on Schedule C.

9. The Trustee reserves the right to request further information or raise further objections prior to or at the confirmation hearing.

I HEREBY CERTIFY that a true and correct copy of the Trustee's Unfavorable Recommendation and Objection Concerning Confirmation of the Plan was furnished electronically and/or by First Class U.S. Mail to **TONIELLE ADAMS HENDRICKS AND FREEMAN HENDRICKS**, 2501 Preserve Ct., Mulberry, Florida 33860; **DEZAYAS FRIEL, LLC**, P.O. Box 6069, Lakeland, Florida 33807; and the **U.S. TRUSTEE**, 501 East Polk Street, Suite 1200, Tampa, Florida 33602, on this 31st day of July, 2015.

/S/ Kelly Remick
Kelly Remick
Chapter 13 Standing Trustee
Post Office Box 6099
Sun City Center, FL 33571-6099
Phone: (813) 658-1165
Fax: (813) 658-1166

KR/WCH/AP